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May 10, 2005

Chairman Liane Randolph
Commissioner Sheridan Downey
Commissioner Philip Blair
Commissioner A. Eugene Huguenin
Commissioner Ray Remy
Fair Political Practices Commission
428 J Street, Suite 650
Sacramento, CA 95814

Fax: 916-327-2026

Dear Chairman & Commissioners:

Re: Proposed Cal. Codes Regs. Section 18530.3

Thank you for the opportunity to comment on this important regulatory proposal.

I am the founder of Complete**Campaigns**.com. We provide software to assist political organizations of all sizes meet their reporting requirements. We have over 500 clients throughout the United States, including many political party committees that file reports with the Federal Election Commission under the Federal Election Campaign Act and also with the Secretary of State and local filing officers under the California Political Reform Act. Of all our clients, our California party committees face some o f the most difficult reporting requirements and a level of complexity that is completely out or proportion with their level of financial activity.

While we attempt to build software that makes committee treasures' reporting duties more manageable, there are limits to what even good software or expert advice can do. I therefore urge you to carefully consider the balance of burdens and benefits when adopting any new regulations. In particular, I strongly urge that proposed regulation 18530.3 not be enacted as it creates a mountain of complexity and burden for treasurers with little or no benefit to the public.

There are a number of problems with the proposed regulation. However, there are two areas of primary concern:

First Primary Concern: Subsection (b)

Subsection (b) of the proposed regulation states:

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> Federal rules prescribing a fixed minimum percentage that must be attributed to expenditures supporting or opposing a federal candidate shall not be deemed to establish the value of expenditures supporting or opposing state or local candidates or measurers, if the federal rules do not accurately reflect the actual value of expenditures supporting or opposing state or local candidates or measures.

As a result, this subsection creates the potential for different allocation rates for state and federal reporting. By requiring different allocation rates, this section has serious consequences in further complicating finance reporting and making it even more difficult for average citizens to comply with the law. The more complicated and difficult regulations make it for average citizens to comply with the law, the less likely average citizens will engage in the process at all.

This proposal also creates the likely and bizarre situation where the total allocated donations in the separate state and federal reporting actually exceeds the total expenditure. For example, if the federal law required a 75% allocation to the federal candidates and this regulation was interpreted to require a 50% allocation to the state candidates, you would have 125% of the total expenditure allocated. Or in simpler terms, if this proposed regulation were to be adopted, the world of campaign finance reporting would be left in the bizarre situation where 1 + 1 does not always equal 2.

Most significantly, the benefits of this proposal are at best minor. While the federal allocation rates may not be perfect, they are reasonable and standardized.

Second Primary Concern: Subsection (c)

Subsection (c) of the proposed regulation states:

> Contributions transferred from federal to non-federal accounts under subdivision (b) of this regulation shall be allocated as of the date of the transfer among all persons who have contributed to the federal account since January 1 of the prior calendar year.

This proposal, as with subsection (b), creates significant new reporting requirements and complexity for committee treasurers with little benefit to the public.

Consider a committee making monthly transfers, of varying amounts, over a two year period. This committee also receives, over the same period, donations from a variety of donors. With each transfer, the treasurer would have to calculate allocable shares of those donations for reporting purposes. In most cases those allocable shares would be below the threshold for reporting itemization, but would still have to be tracked for aggregation rules.

Furthermore, the meaning of subsection (c) is not clear. There are two possible interpretations:

A. **First Interpretation:** After the first transfer, the treasurer would need to take into consideration the previously allocated transfers and allocate the new transfers more heavily to new donors. This will require complicated calculations for software that will be nearly impossible for treasurers to independently verify. This gets more complicated as you consider the overlapping allocation periods. For an example, contributions received in 2005 would be allocated to 2005 & 2006 transfers. Contributions received in 2006 would be allocated to 2006

& 2007 transfers. Thus, for any given transfer, different contributions would end up with different percentages of total transfer allocations.

B. **Second Interpretation**: Each transfer ignores previous transfers when determining the allocation ratio. While much simpler, this interpretation is logically absurd. Imagine a committee that receives $1000 in federal donations in January and makes a transfer of $1000, allocating all of it to these donors. The following month it receives another $1000 in donations from different donors and makes another $1000 transfer. The donors from January would, at that point, have been allocated $500 more than they had actually given.

I would, at the minimum, urge the committee to carefully discuss and determine how these formulas would work before considering approval of the proposed regulation. However, similar to subsection (b), the value of the proposal is minor compared to the costs and problems it creates. Already, these donors are subject to federal reporting requirements, and this information is publicly available on the Federal Election Commission's website. Therefore, I again urge that the proposed regulation not be adopted.

On a final note, both of these proposals essentially make it impossible to file without even more specialized software. Of the nineteen vendors approved to file Form 460, I would be surprised if more than two or three vendors would be actually willing to make the significant changes necessary to meet these new requirements, as they would only impact a small sub-segment of the reporting community. While this would probably be good for my business, it further raises the bar for being politically active and would force more local party committees and activists, of all parties, to stop participating in the process.

Thank you for your time and consideration.

Sincerely,

BAK

Benjamin A. Katz
Company Founder